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Attorneys for Complainant

**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

JEFFREY LESTER BLACKWELL  
1859 Mayfair Drive E  
Fresno CA 93703

Applicant/Respondent.

Case No. 1H 2006 470

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
above-entitled proceedings that the following matters are true:

**PARTIES**

1. Stephanie Nunez (Complainant) is the Executive Officer of the  
Respiratory Care Board (Board) of California. She brought this action solely in her official  
capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State  
of California, by Catherine E. Santillan, Senior Legal Analyst.

2. Respondent Jeffrey Lester Blackwell (Respondent) is representing himself  
in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about August 7, 2006, the Board received an application from  
Respondent dated August 1, 2006 for a respiratory care practitioner license.

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JURISDICTION

4. Statement of Issues No. 1H 2006 470 was filed before the Board, Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on January 15, 2008. Respondent timely filed his Notice of Defense contesting the Statement of Issues. A copy of Statement of Issues No. 1H 2006 470 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. 1H 2006 470. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 1H 2006 470.

9. Respondent agrees that his respiratory care practitioner license is subject to denial and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

1 CONTINGENCY

2 10. This stipulation shall be subject to approval by the Board. Respondent  
3 understands and agrees that counsel for Complainant and the staff of the Board may  
4 communicate directly with the Board regarding this stipulation and settlement, without notice to  
5 or participation by Respondent. By signing the stipulation, Respondent understands and agrees  
6 that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the  
7 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and  
8 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for  
9 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board  
10 shall not be disqualified from further action by having considered this matter.

11 11. The parties understand and agree that facsimile copies of this Stipulated  
12 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
13 force and effect as the originals.

14 12. In consideration of the foregoing admissions and stipulations, the parties  
15 agree that the Board may, without further notice or formal proceeding, issue and enter the  
16 following Disciplinary Order:

17 DISCIPLINARY ORDER

18 IT IS HEREBY ORDERED that Respondent Jeffrey Lester Blackwell be issued a  
19 conditional license to practice respiratory care, which shall be on probation to the Board for a  
20 period of three (3) years on the following terms and conditions:

21 1. WORK SCHEDULES Respondent shall be required to submit to the  
22 probation monitor work schedules on a weekly/monthly basis for the length of probation.  
23 Respondent shall ensure the Board has a copy of his current work schedule at all times for each  
24 place of employment.

25 Failure to submit current work schedules on a continuous basis shall constitute a  
26 violation of probation and shall result in the filing of an accusation and/or a petition to revoke  
27 probation against Respondent's respiratory care practitioner license.

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1                   2.     BIOLOGICAL FLUID TESTING Respondent, at his expense, shall  
2 participate in random testing, including, but not limited to, biological fluid testing (i.e. urine,  
3 blood, saliva), breathalyzer, hair follicle testing, or a drug screening program approved by the  
4 Board. Test costs range from \$21.00 to \$200.00 each. The length of time shall be for the entire  
5 probation period. The frequency and location of testing will be determined by the Board.

6                   At all times, Respondent shall fully cooperate with the Board or any of its  
7 representatives, and shall, when directed, appear for testing as requested and submit to such tests  
8 and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other  
9 controlled substances.

10                  If Respondent is unable to provide a specimen in a reasonable amount of time  
11 from the request, while at the work site, Respondent understands that any Board representative  
12 may request from the supervisor, manager or director on duty to observe Respondent in a manner  
13 that does not interrupt or jeopardize patient care in any manner until such time Respondent  
14 provides a specimen acceptable to the Board.

15                  Failure to submit to testing or appear as requested by any Board representative for  
16 testing, as directed shall constitute a violation of probation and shall result in the filing of an  
17 accusation and/or a petition to revoke probation against Respondent's respiratory care  
18 practitioner license.

19                   3.     ABSTENTION FROM USE OF ANY AND ALL MOOD ALTERING  
20 SUBSTANCES Respondent shall completely abstain from the possession or use of alcohol,  
21 controlled substances, dangerous drugs, and any and all other mood altering drugs, substances  
22 and their associated paraphernalia, except when the drugs are lawfully prescribed by a licensed  
23 practitioner as part of a documented medical treatment.

24                  Respondent shall execute a release authorizing the release of pharmacy and  
25 prescribing records as well as physical and mental health medical records. Respondent shall also  
26 provide information of treating physicians, counselors or any other treating professionals as  
27 requested by the Board.

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1 Respondent shall ensure that he is not in the presence of or in the same physical  
2 location as individuals who are using illegal substances, even if Respondent is not personally  
3 ingesting the drug(s).

4 Any positive result that registers over the established laboratory cutoff level shall  
5 constitute a violation of probation and shall result in the filing of an accusation and/or a petition  
6 to revoke probation against Respondent's respiratory care practitioner license.

7 Respondent also understands and agrees that any positive result that registers over  
8 the established laboratory cutoff level shall be reported to each of Respondent's employers.

9 4. RESTRICTION OF PRACTICE Respondent may not be employed or  
10 function as a member of a respiratory care management or supervisory staff during the entire  
11 length of probation. This includes lead functions.

12 Respondent is prohibited from working in home care unless it is under direct  
13 supervision and personal observation for the duration of probation..

14 Respondent is prohibited from working for a registry for one year from the  
15 effective date of probation.

16 5. DIRECT SUPERVISION For one year from the effective date of  
17 probation, Respondent shall be under the direct supervision of a person holding a current and  
18 valid non-restricted Board license. "Under the direct supervision" means assigned to a  
19 respiratory care practitioner who is on duty and immediately available in the assigned patient  
20 area. The Board shall be informed in writing of and approve the level of supervision provided to  
21 the Respondent while he is functioning as a licensed respiratory care practitioner. The  
22 appropriate level of supervision must be approved by the Board prior to commencement of work.

23 6. SUPERVISOR QUARTERLY REPORTS Supervisor Quarterly Reports  
24 of Performance are due for each year of probation and the entire length of probation from each  
25 employer, as follows:

26 For the period covering January 1<sup>st</sup> through March 31<sup>st</sup>, reports are to be  
27 completed and submitted between April 1<sup>st</sup> and April 7<sup>th</sup>. For the period covering April 1<sup>st</sup>  
28 through June 30<sup>th</sup>, reports are to be completed and submitted between July 1<sup>st</sup> and July 7<sup>th</sup>. For

the period covering July 1<sup>st</sup> through September 30<sup>th</sup>, reports are to be completed and submitted between October 1<sup>st</sup> and October 7<sup>th</sup>. For the period covering October 1<sup>st</sup> through December 31<sup>st</sup>, reports are to be completed and submitted between January 1<sup>st</sup> and January 7<sup>th</sup>.

Respondent is ultimately responsible for ensuring his employer(s) submits complete and timely reports. Failure to ensure each employer submits complete and timely reports shall constitute a violation of probation.

7. OBEY ALL LAWS Respondent shall obey all laws, whether federal, state, or local. Respondent shall also obey all regulations governing the practice of respiratory care in California.

Respondent shall notify the Board in writing within 14 days of any incident resulting in his arrest, or charges filed against, or a citation issued against Respondent.

8. QUARTERLY REPORTS Respondent shall file quarterly reports of compliance under penalty of perjury, on forms to be provided to the probation monitor assigned by the Board. Omission or falsification in any manner of any information on these reports shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent's respiratory care practitioner license.

Quarterly report forms will be provided by the Board. Respondent is responsible for contacting the Board to obtain additional forms if needed. Quarterly reports are due for each year of probation and the entire length of probation as follows:

For the period covering January 1<sup>st</sup> through March 31<sup>st</sup>, reports are to be completed and submitted between April 1<sup>st</sup> and April 7<sup>th</sup>. For the period covering April 1<sup>st</sup> through June 30<sup>th</sup>, reports are to be completed and submitted between July 1<sup>st</sup> and July 7<sup>th</sup>. For the period covering July 1<sup>st</sup> through September 30<sup>th</sup>, reports are to be completed and submitted between October 1<sup>st</sup> and October 7<sup>th</sup>. For the period covering October 1<sup>st</sup> through December 31<sup>st</sup>, reports are to be completed and submitted between January 1<sup>st</sup> and January 7<sup>th</sup>.

Failure to submit complete and timely reports shall constitute a violation of probation.

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1                   9.     PROBATION MONITORING PROGRAM Respondent shall comply  
2 with requirements of the Board appointed probation monitoring program, and shall, upon  
3 reasonable request, report to or appear to a local venue as directed.

4                   Respondent shall claim all certified mail issued by the Board, respond to all  
5 notices of reasonable requests timely, and submit Annual Reports, Identification Update reports  
6 or other reports similar in nature, as requested and directed by the Board or its representative.

7                   Respondent is encouraged to contact the Board's Probation Program at any time  
8 he has a question or concern regarding his terms and conditions of probation.

9                   Failure to appear for any scheduled meeting or examination, or cooperate with the  
10 requirements of the program, including timely submission of requested information, shall  
11 constitute a violation of probation and will result in the filing of an accusation and/or a petition to  
12 revoke probation against Respondent's respiratory care practitioner license.

13                  10.    PROBATION MONITORING COSTS All costs incurred for probation  
14 monitoring during the entire probation shall be paid by the Respondent. The monthly cost may  
15 be adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms  
16 and conditions may also cause this amount to be increased.

17                  All payments for costs are to be sent directly to the Respiratory Care Board and  
18 must be received by the date(s) specified. (Periods of tolling will not toll the probation  
19 monitoring costs incurred.)

20                  If Respondent is unable to submit costs for any month, he shall be required instead  
21 to submit an explanation of why he is unable to submit the costs, and the date(s) he will be able  
22 to submit the costs including payment amount(s). Supporting documentation and evidence of  
23 why the Respondent is unable to make such payment(s) must accompany this submission.

24                  Respondent understands that failure to submit costs timely is a violation of  
25 probation and submission of evidence demonstrating financial hardship does not preclude the  
26 Board from pursuing further disciplinary action. However, Respondent understands providing  
27 evidence and supporting documentation of financial hardship may delay further disciplinary  
28 action.

1 In addition to any other disciplinary action taken by the Board, an unrestricted  
2 license will not be issued at the end of the probationary period and the respiratory care  
3 practitioner license will not be renewed, until such time all probation monitoring costs have been  
4 paid.

5 The filing of bankruptcy by Respondent shall not relieve the Respondent of his  
6 responsibility to reimburse the Board for costs incurred.

7 11. EMPLOYMENT REQUIREMENT Respondent shall be employed a  
8 minimum of 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of his  
9 probation period.

10 Respondent may substitute successful completion of a minimum of thirty (30)  
11 additional continuing education hours, beyond that which is required for license renewal, for  
12 each 8 months of employment required. Respondent shall submit proof to the Board of  
13 successful completion of all continuing education requirements. Respondent is responsible for  
14 paying all costs associated with fulfilling this term and condition of probation.

15 12. NOTICE TO EMPLOYER Respondent shall be required to inform his  
16 employer, and each subsequent employer during the probation period, of the discipline imposed  
17 by this decision by providing his supervisor and director and all subsequent supervisors and  
18 directors with a copy of the decision and order, and the Statement(s) of Issues or Accusation(s) in  
19 this matter prior to the beginning of or returning to employment or within 14 days from each  
20 change in a supervisor or director.

21 If Respondent is employed by or through a registry [and is not restricted from  
22 working for a registry], Respondent shall make each hospital or establishment to which he is sent  
23 aware of the discipline imposed by this decision by providing his direct supervisor and  
24 administrator at each hospital or establishment with a copy of this decision, and the Statement(s)  
25 of Issues or Accusation(s) in this matter prior to the beginning of employment. This must be  
26 done each time there is a change in supervisors or administrators.

27 The employer will then inform the Board, in writing, that he is aware of the  
28 discipline, on forms to be provided to the Respondent. Respondent is responsible for contacting



1 the Board to obtain additional forms, if needed. All reports completed by the employer must be  
2 submitted from the employer directly to the Board.

3 Respondent shall execute a release authorizing the Board or any of its  
4 representatives to review and obtain copies of all employment records and discuss and inquire of  
5 the probationary status with any of Respondent's supervisors or directors.

6 13. CHANGES OF EMPLOYMENT OR RESIDENCE Respondent shall  
7 notify the Board, and appointed probation monitor, in writing, of any and all changes of  
8 employment, location, and address within 14 days of such change. This includes, but is not  
9 limited to, applying for employment, termination or resignation from employment, change in  
10 employment status, change in supervisors, administrators or directors.

11 Respondent shall also notify his probation monitor AND the Board IN WRITING  
12 of any changes of residence or mailing address within 14 days. P.O. Boxes are accepted for  
13 mailing purposes, however the Respondent must also provide his physical residence address as  
14 well.

15 14. SURRENDER OF LICENSE Following the effective date of this  
16 decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable  
17 to satisfy the terms and conditions of probation, he may request the voluntary surrender of his  
18 license. The Board reserves the right to evaluate Respondent's request and to exercise its  
19 discretion whether or not to grant the request or to take any other action deemed appropriate and  
20 reasonable under the circumstances. Upon formal acceptance of the surrender, within 15  
21 calendar days Respondent shall deliver his wallet and wall certificate to the Board or its designee  
22 and he shall no longer practice respiratory care. Respondent will no longer be subject to the  
23 terms and conditions of probation and the surrender of Respondent's license shall be deemed  
24 disciplinary action. If Respondent re-applies for a respiratory care license, the application shall  
25 be treated as a petition for reinstatement of a revoked license.

26 15. COST RECOVERY Respondent shall pay to the Board a sum not to  
27 exceed the costs of the investigation and prosecution of this case. That sum shall be \$1,136.25  
28 (one thousand one hundred thirty six dollars and twenty five cents) and shall be paid in full

1 directly to the Board, in equal quarterly payments, within 12 months from the effective date of  
2 this decision. Cost recovery will not be tolled.

3 If Respondent is unable to submit costs timely, he shall be required instead to  
4 submit an explanation of why he is unable to submit these costs in part or in entirety, and the  
5 date(s) he will be able to submit the costs including payment amount(s). Supporting  
6 documentation and evidence of why the Respondent is unable to make such payment(s) must  
7 accompany this submission.

8 Respondent understands that failure to submit costs timely is a violation of  
9 probation, and submission of evidence demonstrating financial hardship does not preclude the  
10 Board from pursuing further disciplinary action. However, Respondent understands that  
11 providing evidence and supporting documentation of financial hardship may delay further  
12 disciplinary action.

13 Consideration to financial hardship will not be given should Respondent violate  
14 this term and condition, unless an unexpected AND unavoidable hardship is established from the  
15 date of this order to the date payment(s) is due.

16 The filing of bankruptcy by the Respondent shall not relieve the Respondent of his  
17 responsibility to reimburse the Board for these costs.

18 16. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE Periods  
19 of residency or practice outside California, whether the periods of residency or practice are  
20 temporary or permanent, will toll the probation period, but will not toll the cost recovery  
21 requirement, nor the probation monitoring costs incurred. Travel out of California for more than  
22 30 days must be reported to the Board in writing prior to departure. Respondent shall notify the  
23 Board, in writing, within 14 days, upon his return to California and prior to the commencement  
24 of any employment where representation as a respiratory care practitioner is/was provided.

25 17. VALID LICENSE STATUS Respondent shall maintain a current, active  
26 and valid license for the length of the probation period. Failure to pay all fees and meet  
27 Continuing Education requirements prior to his license expiration date shall constitute a violation  
28 of probation.

1                   18.     VIOLATION OF PROBATION If Respondent violates any term of the  
2 probation in any respect, the Board, after giving Respondent notice and the opportunity to be  
3 heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to  
4 revoke probation is filed against Respondent during probation, the Board shall have continuing  
5 jurisdiction and the period of probation shall be extended until the matter is final. No petition for  
6 modification of penalty shall be considered while there is an accusation or petition to revoke  
7 probation or other penalty pending against Respondent.

8                   19.     COMPLETION OF PROBATION Upon successful completion of  
9 probation, Respondent's license shall be fully restored.

10  
11   ACCEPTANCE

12                   I have carefully read the Stipulated Settlement and Disciplinary Order. I  
13 understand the stipulation and the effect it will have on my respiratory care practitioner license.  
14 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and  
15 intelligently, and agree to be bound by the Decision and Order of the Respiratory Care Board.

16 DATED: February 11, 2008.

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18   Original signed by: \_\_\_\_\_  
19   JEFFREY LESTER BLACKWELL)  
20   Respondent  
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Respiratory Care Board of the Department of Consumer Affairs.

DATED: February 14, 2008

EDMUND G. BROWN JR., Attorney General  
of the State of California  
  
JOSE R. GUERRERO  
Supervising Deputy Attorney General

Original signed by:  
CATHERINE E. SANTILLAN  
Senior Legal Analyst  
  
Attorneys for Complainant

DOJ Matter ID: SF2007403387  
blackwell\_j\_stip\_prob.wpd

**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No. 1H 2006 470

JEFFREY LESTER BLACKWELL  
1859 Mayfair Drive E  
Fresno CA 93703

Respondent.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 3, 2008.

It is so ORDERED May 20, 2008.

Original signed by:

LARRY L. RENNER, BS, RRT, RCP, RPFT  
PRESIDENT, RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA